

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
NO. 5:02-CR-160-1H

PABLO EMILIO RODRIGUEZ, III, )  
Petitioner, )  
v. )  
UNITED STATES OF AMERICA, )  
Respondent. )

ORDER

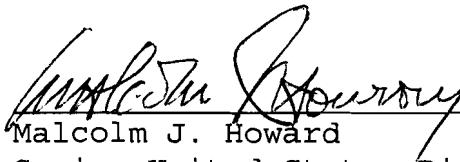
This matter is before the court on petitioner's motion entitled "Motion to Cancel Any Fine Due to Petitioner's State of Insolvency and Incapacity to Pay Any Fine." Petitioner believes that the judgment incorrectly reflects the fine which was pronounced at his sentencing hearing.

While petitioner is correct in his assertion that the oral pronouncement of sentence is controlling, a review of the sentencing transcript shows that the defendant was ordered to pay to the United States a fine in the amount of \$5,000. The court held that petitioner was without the ability to pay interest or to pay a fine within the prescribed range. Petitioner reads this to mean that the fine itself was waived.

However, the record reveals that his fine was lowered to \$5,000 from the range dictated by the guidelines.

Therefore, petitioner's motion is without merit and is hereby DENIED.

This 15 day of November 2010.

  
Malcolm J. Howard  
Senior United States District Judge

At Greenville, NC  
#26